



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

June 12, 1978

ATTORNEY GENERAL OPINION NO. 78- 187

Mr. W. Keith Weltmer
Secretary of Administration
Department of Administration
2nd Floor - State Capitol
Topeka, Kansas 66612

Re: State Moneys--Appropriations--Medical Malpractice Legal Counseling

Synopsis: Section 28 of 1978 Senate Bill 915 does not allow the expenditure of any moneys in excess of \$25,000 from the appropriation for other operating expenditures at ch. 21, § 8(a), L. 1977, for medical malpractice legal counseling.

* * *

Dear Mr. Weltmer:

Ch. 21, § 8(a) provides in pertinent part thus:

"There is appropriated for the above agency from the state general fund the following:

* * *

Other operating expenditures (including hospitality \$2,571,366
Provided, That not more than \$25,000 may be expended from this appropriation for medical malpractice legal counsel"

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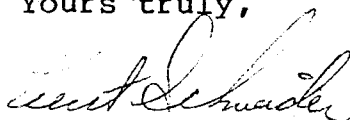
Section 28 of 1978 Senate Bill 915 provides thus:

"The university of Kansas is hereby authorized and directed to pay from the moneys appropriated from the state general fund for other operating expenditures (including official hospitality) for medical malpractice legal counsel for the Kansas City campus for the fiscal year ending June 30, 1978, the following amount for legal services provided in the following cases filed in the district court of Wyandotte County"

The omitted language specifies a payment of \$6,108.31 to Reid F. Holbrook.

You advise that it is understood that the foregoing section 28 of 1978 Senate Bill 915 authorizes the University of Kansas to pay \$6,108.31 to Mr. Holbrook for medical malpractice legal counseling for the fiscal year ending June 30, 1978. You further advise that the legal counsel fees due Mr. Holbrook were incurred prior to the beginning of fiscal year 1978, and that the \$6,108.31 prior year claim and the current fiscal year medical malpractice legal counseling expenses will exceed the \$25,000 limitation. You inquire whether 1978 Senate Bill 915, § 28, allows an additional amount of \$6,108.31 to be expended for medical malpractice legal counseling fees for the fiscal year ending June 30, 1978, in excess of the \$25,000 previously appropriated. It does not. The proviso to ch. 21, § 8(a), L. 1977, restricts the expenditure for medical malpractice legal counsel from the appropriation for other operating expenditures to the sum of \$25,000. Thus, of the total of \$2,571,366 appropriated for other operating expenditures, no more than \$25,000 is legally available for that purpose. Section 28 of 1978 Senate Bill 915 directs the payment of \$6,108.31 to Mr. Holbrook for legal services from the "moneys appropriated from the state general fund for other operating expenditures . . . for medical malpractice legal counsel for the Kansas City campus for the fiscal year ending June 30, 1978." This latter sum is \$25,000, not \$2,571,366. Nothing in section 28 of 1978 Senate Bill 915 appropriates any money for the payment to Mr. Holbrook, but merely directs the payment of the stated sum from moneys previously appropriated and legally available for the payment of medical malpractice legal counsel, which sum is but \$25,000.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj